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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,262	02/22/2005	Akira Nakano	MATS:057	5009

37013 7590 03/17/2008

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EXAMINER	
WEINSTEIN, LEONARD J	
ART UNIT	PAPER NUMBER
3746	
MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/525,262	NAKANO ET AL.	
	Examiner	Art Unit	
	LEONARD J. WEINSTEIN	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 17, 2008 has been entered.

2. This office action is in response to the amendment of January 18, 2008. The examiner acknowledges the amendments to claims 1 and 4-7. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. 6,446,454 in view of Johnson et al. US 6,390,132. Lee teaches all the limitations as

substantially claimed for a hermetic compressor including: **[claim 1]** an electric motor unit 8, a compressing unit 18 driven by the electric motor unit 8, a hermetic container 6 accommodating the electric motor unit 8 and the compressing unit 18, a compressing room, as defined within element 6 and surrounding elements 8, 10, and 20 as shown in figure 1, having an opening 22, wherein the compressing unit 18 comprises a suction valve (col. 3 ll. 47) disposed at the opening of the compressing room and a suction muffler (fig. 4) having a suction muffler body 200 forming a sound-deadening space 24b (col. 4 ll. 29-36), a first communicating path 26 communicating with the suction valve (col. 3 ll. 47) and with the sound-deadening space 24b, and a second communicating path 25 communicating with the hermetic container 18, via element 22, and with the sound-deadening space 24b, via element 24a, wherein an opening, section of element 26 facing to element 42, which is situated in the sound-deadening space 24b of the first communicating path 26, and an opening, section of element 25 facing element 42, which is situated in the sound-deadening space 24b, of the second communicating path 25 are open in a substantially identical direction (fig. 4), wherein a wall, as defined by a bottom surface of element 200 attached to element 42 via element 43 as shown in the embodiment of figure 4, of the suction muffler body 200 has an integrally formed sound-insulating wall 42 confronting both of the openings, sections of elements 25 and 26 facing element 42, situated in the sound-deadening space 24b, and wherein the sound-insulating wall 42 and a wall 50 of the suction muffler body form a blocked space (fig. 4); **[claim 5]** and a sound-insulating wall 42 that works as a guiding wall for guiding gas sucked from a second communicating path 25 to a first communicating path 26 smoothly (fig. 6; col. 4 ll. 55-63).

Lee fails to teach the following limitations that are taught by Johnson for a muffler body 50 including: an opening, 64 surrounding element 20, which is situated in the sound-deadening

space 60 of a first communicating path element 36 of element 20, and an opening, 62 surrounding element 20, which is situated in the sound-deadening space 60, of the second communicating path, 34 of element 20, are open in a substantially identical horizontal direction (fig. 3), wherein a wall 56 of a muffler body 50 has an integrally formed sound-insulating wall 66 forming an opposite vertical face confronting both of the openings, elements 64 and 62, of the first and second communicating paths, elements 36 and 34 of element 20, situated in the sound-deadening space 60, and wherein the sound-insulating wall 66 and a wall 56 of the suction muffler body form a blocked space, space having instances of element 24, as shown in figure 3; **[claim 5]** and wherein the first communication path 36 is disposed above the second communication path 34. Johnson teaches that vertically disposed damper body, such as the one of the embodiment in figure 3, absorbs energy generated by a flow of gas (col. 1 ll. 61-67). Johnson teaches an energy absorber that is essentially equivalent to the sound (energy absorber) of Lee however the wall and opening are orientated vertically and horizontally, respectively. This configuration is opposite from that of Leigh where the sound deadening wall and openings are arranged horizontally and vertically. Lee discloses the claimed invention except for exact orientation that is taught by Johnson for an absorbing wall having inlet and outlet paths confronting the wall in configuration where the wall is orientated vertically and the openings are orientated horizontally. It would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose a wall of a suction muffler vertically and make communication paths open horizontally and confront a vertical wall in order to deaden a sound generated when refrigerant gas is sucked into a muffling space. It has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

6. Claims 4 and 7 are rejected under 35 U.S.C 103 (a) as being unpatentable over Lee et al. 6,446,454 in view of Johnson et al. US 6,390,132, further in view of Ono et al. 6,155,067. A combination of Lee and Johnson teaches the invention as discussed including: **[claim 4]** (with respect to Lee) a suction muffler 200 formed of at least two components, elements 24b, 42, and 50 as shown in figure 6; **[claim 7]** (with respect to Johnson) and a wall 66 disposed vertically with respect to an opening face 52 of an absorbing body 50, as shown in figure 3. A combination of Lee and Johnson fails to teach the limitation that is taught by Ono for a hermetic compressor provided with a suction muffler 16 made of a synthetic resin (Ono – col. 4 ll. 39-43) for the purposes of providing a suction muffler with low thermal conductivity (Ono- col. 2 ll. 25-26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a suction muffler for a hermetic compressor made from synthetic resin type in order to provide a muffler with a low thermal conductivity (Ono- col. 2 ll. 25-26).

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. 6,446,454 in view of Johnson et al. US 6,390,132, further in view of Myung et al. 2002/0090305. A combination of the references as discussed teaches all the limitations as for hermetic compressor but fails to teach the limitation that is taught by Myung for a sound-attenuating wall working as a guide wall 131 within a suction muffler body having a U-shaped cross-section when viewed from a sectional perspective. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sound attenuating wall 42 of Lee in to the shape of a U in order to minimize the resistance to flow of refrigerant within a suction chamber of a hermetic compressor (Myung - 0030).

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 4-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Karmer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Rodríguez/
Primary Examiner, Art Unit 3746

/Leonard J Weinstein/
Examiner, Art Unit 3746